

Interpretation of Espionage Act (Title 50 USC)

As cited in the case of Gorin vs. United States which was combined with Salich vs. United States, 312 United States 713 decided 13 January 1941, prosecution can be had under the above titled statute. Defendants were convicted under the Espionage Act in these cases.

The defendants contended that an interpretation of the Statute that the furnishing of any information connected with or related to the National Defense other than concerning those specifically mentioned in the Act would render the Act unconstitutional as violative of the due process clause. However the Supreme Court held that the words of the statute satisfied it that the meaning of national defense in Sections 1(b) and 2(a) cannot be limited to places and things specifically mentioned in Section 1(a). The Court could find no uncertainty in the Statute which would deprive a person of the ability to pre-determine whether a contemplated action is criminal under the provisions of the law. The delimiting words in the statute are those requiring "intent or reason to believe that the information to be obtained is to be used to the injury of the United States or to the advantage of any foreign nation."

The defendants contended that the evidence failed to support a conclusion that the defendants knew or had reason to believe that the information was to be used to the injury of the United States or to the advantage of a foreign nation, and further contended that the evidence did not establish that any of the reports related to or were connected with the national defense. The court held that reports of this nature are a part of this nation's plans for armed defense and it was not necessary to prove that the information obtained was to be used for the injury of the United States. The court held that the question whether the information obtained by the defendants related to or was concerned with the national defense was a question of fact solely for the determination of the jury.

The court went on to state "In short, the phrase 'information connected with National Defense' as used in the context of the Espionage Act, means, broadly, secret or confidential information which has its primary significance in relation to the possible armed conflicts in which the nation might be engaged. The protected information is readily recognizable from the common experience and knowledge of the average man." The instructions to the jury also stated "From the standpoint of military or naval strategy it might not only be dangerous to us for a foreign power to know our weaknesses and our limitations, but it might also be dangerous to us when such a foreign power knows that we know they know of our limitations."

The Supreme Court in considering the use of the words in the statute of "national defense" stated that national defense as used in the Espionage Act "is a generic concept of broad connotations referring to the military and naval establishments and the related activities of national preparedness."

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As will be seen from the above, motive must be distinguished from intent. The motive in furnishing classified information may be above reproach but regardless of motive, intent or reason to believe is determination of guilt and, in law, a person is held to intend the natural and probable consequences of his act.

From a digest of the above information it would appear that the Espionage Act might be used as a basis for prosecution in the cases of individuals released from this organization who disclose information obtained as a consequence of their work to unauthorized sources.

It is suggested that in debriefing individuals that the consequences of unlawful release of information be brought to their attention.